

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES T. SULLIVAN, not individually but as Trustee of)
PLUMBERS' PENSION FUND, LOCAL 130, U.A., etc.,)
et al.,)
Plaintiffs,)) No. 10 C 1853
v.)) Judge John W. Darrah
EVANSTON PLUMBING COMPANY,)) Magistrate Judge Arlander Keys
an Illinois corporation; and)
EVANSTON PLUMBING SERVICES, INC.,)
an Illinois corporation,)
Defendants.)

PLAINTIFFS' MOTION FOR JUDGMENT

Plaintiffs, James T. Sullivan, not individually, but as Trustee of Plumbers' Pension Fund, Local 130, U.A., etc., et al. ("Funds"), by their attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus, with LEWIS, OVERBECK & FURMAN, LLP of counsel, move the Court to enter Judgment in favor of Funds and against Defendants, Evanston Plumbing Company and Evanston Plumbing Services, Inc. In support hereof, Funds state:

1. Funds filed this action on March 24, 2010, to obtain an audit verifying Defendants' compliance with their obligations to Funds under a collective bargaining agreement, ERISA, 29 U.S.C. §§1132 and 1145, and LMRA, 29 U.S.C. §185, and to recover all amounts due to Funds.

Complaint, Docket No. 1.

2. Counsel for Defendants' appeared on May 6, 2010. *Appearance, Doc. No. 11.*
3. Counsel for Defendants withdrew approximately 7.5 months ago, on September 3, 2010. *Order, Doc. No. 18.* As of the date of filing this Motion, neither Defendant has obtained new counsel.

4. The certified public accounting firm of Legacy Professionals LLP, conducted the compliance audit of Defendants' books and records. Upon completing the audit, Legacy issued its Report of Audit Changes ("Audit Report") dated December 30, 2010. The Audit Report revealed that Defendants owe certain amounts to Funds.

5. On March 1, 2011, Funds filed a First Amended Complaint including the Audit Report as Exhibit B thereto. *First Amended Complaint, Doc. No. 24.*

6. Pursuant to F.R.Civ.P. 15(a)(3), Defendants were required to answer the Amended Complaint by March 18, 2011.

7. As of the date of filing of this Motion, Defendants have not answered or otherwise responded to the Amended Complaint.

8. Defendants are in default.

9. Defendants owe the following:

Audit delinquency per Audit Report attached as Exhibit B to First Amended Complaint, per Collective Bargaining Agreement and ERISA, 29 U.S.C. §1132(g)(2)(A) and (B) and LMRA, 29 U.S.C. §185

\$123,394.90

Additional interest for period 12/1/10 through 4/30/11 at \$1,391.88/mo. as set forth in Audit Report per Collective Bargaining Agreement and 29 U.S.C. §1132(g)(2)(B) and 29 U.S.C. §185

6,959.40

ERISA double interest through 4/30/11 including accrued interest of \$23,179.64 as set forth in Audit Report and additional interest of \$6,959.40 as set forth above per 29 U.S.C. §1132(g)(2)(C)

30,139.04

Funds' attorneys' fees and costs through 3/31/11 as set forth in Affidavit of John W. Loseman attached as Exhibit One per Collective Bargaining Agreement and 29 U.S.C. §1132(g)(2)(D), and 29 U.S.C. §185

10,973.54

Funds' audit costs as set forth in Affidavit of James Kemperas attached as Exhibit Two per Collective Bargaining Agreement and 29 U.S.C. §1132(g)(2)(E), and 29 U.S.C. §185

8,126.05

Total due: \$179,592.93

WHEREFORE, Plaintiffs, James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., Plumbers' Welfare Fund, Local 130, U.A., The Trust Fund for Apprentice and Journeymen Education and Training, Local 130, U.A., and Chicago Journeymen Plumbers' Local Union 130, U.A., Group Legal Services Plan Fund; The Plumbing Council of Chicagoland; and Chicago Journeymen Plumbers' Local Union 130, U.A., request that the Court enter judgment in favor of Plaintiffs and against Defendants, Evanston Plumbing Company and Evanston Plumbing Services, Inc., jointly and severally, in the amount of \$179,592.93.

James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., etc., et al., by their attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus

By: /s/ John W. Loseman

John W. Loseman
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Of Counsel:

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CERTIFICATE OF SERVICE

John W. Loseman, an attorney, certifies that he caused a copy of the foregoing Plaintiffs' Motion for Judgment to be served on the following person(s):

Arlene Panas, President
Evanston Plumbing Company
611 W. End Road
Roselle, IL 60172

Roman P. Panas, President
Evanston Plumbing Services, Inc.
611 W. End Road
Roselle, IL 60172

by causing true and correct copies thereof to be sealed in envelopes addressed as aforesaid, with proper First Class postage prepaid, and deposited with the U.S. Postal Service at 20 N. Clark Street, Chicago, IL, this 27th day of April, 2011.

/s/ John W. Loseman